

## REMARKS/ARGUMENTS

Claims 1-6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gelinas et al., U.S. Patent No. 6,817,362 B2 in view of Montesi, U.S. Patent No. 4,630,604 and Shigematsu et al., U.S. Patent No. 4,501,272. Reconsideration of the rejection is respectfully requested.

Independent claim 1, as amended, provides, in part, for, “[a] respiratory mask comprising: a shield of an air impermeable bent sheet ....” Antecedent basis for the amendment to claim 1 is found in the specification, for example, on page 1, lines 4-5, 24-26, and on page 2, lines 1-4.

The Examiner contends, in the analysis supporting the rejection, that reference object 24, shown in Fig. 7 of Gelinas et al., is the equivalent of the shield of independent claim 1, (Office Action, page 2, paragraph 1, lines 1-2). However, the shield or cover 24 of Gelinas et al. is expressly required to be air permeable, Gelinas et al. stating that, “cover 24 could be of many configurations, so long as air is able to pass through cover 24,” (column 4, lines 47-48; emphasis supplied). Thus, the shield or cover 24 of Gelinas et al. directly teaches away from the requirement of independent claim 1 of “a shield of an air impermeable bent sheet.”

It is respectfully submitted that the acknowledgment by the Examiner that Gelinas et al. does not disclose the feature of “air impermeable” and the Examiner’s attempt to supply such feature from Shigematsu et al., (Office Action, page 3, lines 13-15), does not adequately support the rejection of claim 1 since Gelinas et al. requires that the shield or cover 24 therein be permeable to air. Therefore, contrary to the Examiner’s conclusion, Applicants respectfully submit that it would not be obvious to modify the shield of Gelinas et al. in view of Shigematsu et al. to obtain an air impermeable wall for the mask body, (see Office Action, page 3, lines 15-18).

Moreover, Applicants respectfully disagree with the Examiner’s contention that Shigematsu et al. teaches in Fig. 9 an air impermeable shield 52, (Office Action, page 3, line 15). Element 52 in Shigematsu et al. is described as a front wall 52 of the intake chamber, (column 4, lines 34-35), and is not described as air impermeable.

Since each of claims 2-6 is directly or indirectly dependent upon independent claim 1, each of claims 2-6 is allowable over Gelinas et al. in view of Montesi and Shigematsu et al. for


the same reasons recited above with respect to the allowability of independent claim 1 over Gelinas et al. in view of Montesi and Shigematsu et al.

In view of the foregoing remarks, allowance of claims 1-6 is respectfully requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 14, 2006:

Robert C. Faber

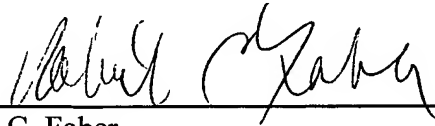
Name of applicant, assignee or  
Registered Representative

  
Signature

September 14, 2006

Date of Signature

Respectfully submitted,



Robert C. Faber

Registration No.: 24,322

OSTROLENK, FABER, GERB & SOFFEN, LLP

1180 Avenue of the Americas

New York, New York 10036-8403

Telephone: (212) 382-0700

RCF/LAH:lac